



Arnold Schwarzenegger
Governor

October 29, 2010
22:432:gsr:1106:1180

Ms. Cindy L. Myers, Ph.D., Chief Executive Officer
Marin Services for Women
1251 South Eliseo Drive
Greenbrae, CA 94904

Dear Ms. Myers:

WORKFORCE INVESTMENT ACT
VETERANS EMPLOYMENT-RELATED ASSISTANCE PROGRAM
15-PERCENT ADULT PROJECT
25-PERCENT DISLOCATED WORKER PROJECT
FINAL MONITORING REPORT
PROGRAM YEAR 2009-10

This is to inform you of the results of our review for Program Year (PY) 2009-10 of the Marin Services for Women's (MSW) administration of its Workforce Investment Act (WIA) Veteran's Employment-Related Assistance Program (VEAP) Projects. Ms. Cynthia Parsell, Ms. Alice Cedillo, and Ms. Ann Brito conducted this review from April 26, 2010 through April 30, 2010. For the program operations portion of the review, we focused primarily on the areas of program administration, participant eligibility, WIA activities, monitoring, if applicable, and management information system/reporting. For the financial management portion of the review, we focused primarily on the areas of accounting systems, expenditures, allowable costs, cost allocation, reporting, cost pools, indirect costs, cash management, internal controls, program and interest income, single audit, if applicable, and property management. For the procurement portion of the review, we focused on procurement competition, cost and price analyses, and contract provisions.

We conducted our review under the authority of Sections 667.400(c) and 667.410(b) (1)(2)(3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by MSW with applicable federal and state laws, regulations, policies, and directives related to the WIA grant regarding program operations, financial management and procurement.

We collected the information for this report through interviews with MSW representatives. In addition, this report includes the results of our review of sampled case files for participants enrolled in the WIA VEAP Projects; a review of MSW's

response to Sections I and II of the Program On-Site Monitoring Guide; applicable policies and procedures; and a review of documentation retained by MSW for a sample of expenditures and procurements.

We received your response to our draft report on September 21, 2010, and reviewed your comments and documentation before finalizing this report. Because your response adequately addressed the findings 2, 7, and 10 cited in the draft report, no further action is required and we consider the issues resolved.

Although your response adequately addressed finding 11 cited in the draft report, this issue will remain open until we verify the implementation of your stated corrective action plan during a future on-site review. Until then, this finding is assigned Corrective Action Tracking System (CATS) number 10174.

However, because your response did not adequately address findings 1, 3, 4, 5, 6, 8, 9, and 12 cited in the draft report, we consider these findings unresolved. We request that MSW provide the Compliance Review Office (CRO) with additional information to resolve the issues that led to the findings. Therefore, these findings remain open and have been assigned CATS numbers 10164, 10166, 10167, 10168, 10169, 10171, 10172, and 10175, respectively.

BACKGROUND

The MSW was awarded \$229,161 in 15-Percent funds to serve 10 adult participants and \$229,161 in 25-Percent funds to serve 25 dislocated worker (DW) participants from January 1, 2009 through June 30, 2010.

For the period ending March 2010, MSW reported that it spent \$174,470 of its 15-Percent funds to enroll 7 adult participants and spent \$174,470 of its 25-Percent funds to enroll 8 DW participants. We reviewed case files for 16 of the 16 participants enrolled in the WIA VEAP Projects as of April 30, 2010.

15-PERCENT ADULT PROGRAM REVIEW RESULTS

While we concluded that, overall, MSW is meeting applicable WIA requirements concerning grant program administration, we noted instances of noncompliance in the following areas: veteran's status, equal opportunity, and grievance and complaint procedures. The findings that we identified in these areas, our recommendations, and MSW's proposed resolution of the findings are specified below.

FINDING 1

Requirement: 20 CFR 663.105 states, in part, that registration is the process of collecting information to support a determination of eligibility.

Adults and dislocated workers who receive services funded under Title I other than self-service or information activities must be determined eligible and registered.

WIA Directive (WIAD) 02-14 states, in part, that there are no additional adult eligibility requirements unless special groups are to be targeted. The eligibility criteria for these special groups will be spelled out in the project narrative of the subgrant agreement that EDD will establish with the project operator.

Subgrant agreement #R973189 project narrative indicates the target group is veterans.

Observation: We observed 1 of 8 case files for registered participants did not have any documentation to verify veteran eligibility for the VEAP project.

Recommendation: We recommended that MSW obtain veteran eligibility documentation for the above case and provide a copy to CRO.

MSW Response: The MSW stated that it had attempted to contact the participant who had not provided eligibility documentation, however, it was unsuccessful. Therefore, MSW exited this participant from the program.

State Conclusion: Based on MSW's response, we cannot resolve this issue at this time. The MSW was unable to provide CRO with veteran eligibility documentation for the above participant. If MSW is unable to provide eligibility documentation for the participant, we recommend that all costs associated with that participant be backed-out, charged to a non-federal funding source, and that CRO be provided with documentation of its actions. Until then, this issue remains open and has been assigned CATS number 10164.

FINDING 2

Requirement: WIA Section 188(a)(1)(2) states, in part, that programs and activities must prohibit discrimination on the basis of age, disability, sex, race, color, national origin, and political affiliation or belief.

20 CFR 667.275 states, in part, recipients must comply with nondiscrimination and equal opportunity provisions.

Workforce Services Directive (WSD) 07-6 states, in part, that participant files include a signed acknowledgement of receipt of the notice of nondiscriminatory practices and equal opportunity complaint procedures.

Observation: We observed that MSW's signed acknowledgment of receipt contains language that prohibits discrimination based upon age, sex, race, color, national origin, and disability; however, it does not contain language that prohibits discrimination based on political affiliation or belief.

Recommendation: We recommended that MSW provide CRO with a corrective action plan (CAP) stating how it will ensure that, in the future, the nondiscrimination and equal opportunity acknowledgement of receipt contains language that prohibits discrimination based on political affiliation or belief.

MSW Response: The MSW stated that it has amended its acknowledgment of receipt to include language that prohibits discrimination based on political affiliation or belief and provided a copy of this document to CRO.

State Conclusion: We consider this finding resolved.

FINDING 3

Requirement: 20 CFR 667.600(d) states, in part, that states must provide a process for dealing with grievances and complaints.

WSD08-4 states, in part, that WIA 15-Percent projects shall adopt the state-level grievance and complaint procedures, which includes designating an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures.

Observation: The MSW's Client Grievance Policy and Procedures do not adopt the state-level grievance and complaint procedures or designate an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures. The MSW's Grievance Policy and Procedures are currently only specific to drug and alcohol facilities.

Recommendation: We recommended that MSW provide CRO with an updated Client Grievance Policy and Procedures as specified above.

MSW Response: The MSW stated it has amended its Client Grievance Policy and Procedures and has provided a copy of the amended document to CRO. The amended version includes a designated individual who is responsible for adopting and publishing EDD grievance and complaint procedures as well as an EDD address to file complaints.

State Conclusion: Based on MSW's response, we cannot resolve this issue at this time. The MSW's amended version of its Client Grievance Policy and Procedures includes a designated individual who is responsible for adopting and publishing EDD grievance and complaint procedures as well as an EDD address to file complaints. However, it does not adopt EDD's state-level grievance and complaint procedures as outlined by WSD08-4.

We recommend that MSW adopt EDD's state-level grievance and complaint procedures and provide a copy to CRO. Until then, this issue remains open and has been assigned CATS number 10166.

25-PERCENT DISLOCATED WORKER PROGRAM REVIEW RESULTS

While we concluded that, overall, MSW is meeting applicable WIA requirements concerning grant program administration, we noted instances of noncompliance in the following areas: dislocated worker eligibility, veteran's status, right-to-work, equal opportunity, and grievance and complaint procedures. The findings that we identified in these areas, our recommendations, and MSW's proposed resolution of the findings are specified below.

FINDING 4

Requirement: 20 CFR 663.105 states, in part, that registration is the process for collecting information to support a determination of eligibility. Adults and dislocated workers who receive services funded under Title I other than self-service or informational activities must be registered and determined eligible.

WIAD04-18 states, in part, a dislocated worker eligibility criteria is a person who has been terminated or laid off, who has received a notice of termination or layoff, who is eligible or has exhausted unemployment insurance, and who is unlikely to return to work in a previous industry or occupation.

- Observation:** We found that 8 of 8 participant case files did not contain documentation to support dislocated worker eligibility.
- Recommendation:** We recommended that MSW provide CRO with documentation to support the eight participants' DW eligibility.
- MSW Response:** The MSW stated that it was able to obtain eligibility documentation for 2 of the 8 participants and provided this documentation to CRO. Further, MSW is in the process of obtaining eligibility documentation for one other participant. However, MSW was unable to contact the remaining 5 participants who are missing eligibility documentation and therefore, does not have the missing documents.
- In addition, MSW stated that because 2 of 5 participants it is unable to reach are also missing other required documentation, MSW will be exiting these participants from the WIA program.
- State Conclusion:** Based on MSW's response, we cannot resolve this issue at this time. The MSW was unable to provide eligibility documentation to the CRO to support all 8 participants DW program eligibility.
- We recommend that MSW provide CRO with documentation to support the 6 remaining participants DW program eligibility. If MSW is unable to provide eligibility documentation for these participants, we recommend all costs associated with the participants be backed-out, charged to a non-federal funding source, and that CRO be provided with documentation of its actions. Until then, this issue remains open and has been assigned CATS number 10167.

FINDING 5

- Requirement:** 20 CFR 663.105 states, in part, that registration is the process of collecting information to support a determination of eligibility. Adults and dislocated workers who receive services funded under Title I other than self-service or information activities must be determined eligible and registered.
- WIAD02-14 states, in part, that there are no additional adult eligibility requirements unless special groups are to be targeted. The eligibility criteria for these special groups will be spelled out in the project narrative of the subgrant agreement that EDD will establish with the project operator.

Subgrant agreement #R973189 project narrative indicates the target group is veterans.

Observation: We observed 2 of 8 case files for registered participants did not have any documentation to verify veteran eligibility for the VEAP project.

Recommendation: We recommended that MSW obtain veteran eligibility documentation for the above two cases and provide the documentation to CRO.

MSW Response: The MSW stated it was able to obtain veteran eligibility documentation for 1 of the 2 participants and provided a copy to CRO. However, it was unable to contact the other participant and will be exiting the participant from the WIA program.

State Conclusion: Based on MSW's response, we cannot resolve this issue at this time. The MSW was unable to provide documentation for 1 of the 2 participants who were missing veteran eligibility documentation. If MSW is unable to provide veteran eligibility documentation for this participant, we recommend all costs associated with the participant be backed-out, charged to a non-federal funding source, and that documentation of its actions be provided to CRO. Until then, this issue remains open and has been assigned CATS number 10168.

FINDING 6

Requirement: 20 CFR 663.105 states, in part, that registration is the process of collecting information to support a determination of eligibility. Adults and dislocated workers who receive services funded under Title I other than self-service or information activities must be determined eligible and registered.

WIA Eligibility Technical Assistance Guide (WIAD04-18) states, in part, that a participant must submit documentation proving right-to-work, selective service registration, and age. The documentation of an individual's right-to-work is published in the Immigration and Naturalization Service Form I-9, and details the documents which establish identity and employment authorization.

Observation: We observed that 3 of 16 case files did not contain documentation to verify the participant's right-to-work. Specifically, the

participant case file did not contain documents that verify the individual's identity, such as driver's license or identification card.

Recommendation: We recommended that MSW provide CRO with documentation to verify the identity of these 3 individuals.

MSW Response: The MSW stated that it was able to obtain documentation to verify identity for 1 of the 3 participants via driver's license and provided a copy to CRO. The MSW also stated it was able to obtain veteran status and right-to-work through a participant's DD214 and provided a copy to CRO. MSW was unable to contact the remaining participant and since this participant is missing additional eligibility documentation, MSW will exit the participant from the WIA program.

State Conclusion: Based on the MSW's response, we cannot resolve this issue at this time. The MSW only provided appropriate identification documentation for 1 of the 3 above participants.

We recommend that MSW provide documentation to verify the identity of the remaining 2 participants' as outlined by WIAD04-18. If MSW is unable to provide documentation to verify these 2 participants identity, we recommend all costs associated with the participants be backed-out, charged to a non-federal funding source, and that documentation of its actions be provided to CRO. Until then, this issue remains open and has been assigned CATS number 10169.

FINDING 7

Requirement: WIA Section 188(a)(1)(2) states, in part, that programs and activities must prohibit discrimination on the basis of age, disability, sex, race, color, national origin, and political affiliation or belief.

20 CFR 667.275 states, in part, recipients must comply with nondiscrimination and equal opportunity provisions.

WSD07-6 states, in part, that participant files include a signed acknowledgement of receipt of the notice of nondiscriminatory practices and equal opportunity complaint procedures.

Observation: We observed that MSW's signed acknowledgment of receipt contains language that prohibits discrimination based upon age,

sex, race, color, national origin, and disability; however, it does not contain language that prohibits discrimination based on political affiliation or belief.

Recommendation: We recommended that MSW provide CRO with a CAP stating how it will ensure, in the future, the nondiscrimination and equal opportunity acknowledgement of receipt contains language that prohibits discrimination based on political affiliation or belief.

MSW Response: The MSW stated it has amended its acknowledgment of receipt to include language that prohibits discrimination based on political affiliation or belief and provided a copy of this document to CRO.

State Conclusion: We consider this finding resolved.

FINDING 8

Requirement: 20 CFR 667.600(d) states, in part, that states must provide a process for dealing with grievances and complaints.

WSD08-4 states, in part, that WIA 15-Percent projects shall adopt the state-level grievance and complaint procedures, which includes designating an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures.

Observation: The MSW's Client Grievance Policy and Procedures do not adopt the state-level grievance and complaint procedures or designate an individual who will be responsible for adopting and publishing the EDD grievance and complaint procedures. The MSW's Grievance Policy and Procedures are currently only specific to drug and alcohol facilities.

Recommendation: We recommended that MSW provide CRO with an updated Client Grievance Policy and Procedures as specified above.

MSW Response: The MSW stated it has amended its Client Grievance Policy and Procedures and has provided a copy of the amended document to CRO. The amended version includes a designated individual who is responsible for adopting and publishing EDD grievance and complaint procedures as well as an EDD address to file complaints.

State Conclusion: Based on MSW's response, we cannot resolve this issue at this time. The MSW's amended version of its Client Grievance Policy and Procedures includes a designated individual who is responsible for adopting and publishing EDD grievance and complaint procedures as well as an EDD address to file complaints. However, it does not adopt EDD's state-level grievance and complaint procedure as outlined by WSD08-4.

We recommend that MSW adopt EDD's state-level grievance and complaint procedures and provide verification of this to CRO. Until then, this issue remains open and has been assigned CATS number 10171.

FINANCIAL MANAGEMENT REVIEW RESULTS

While we concluded that, overall, MSW is meeting applicable WIA requirements concerning financial management, we noted an instance of noncompliance in the area of questioned costs. The finding that we identified in this area, our recommendation, and MSW's proposed resolution of the finding is specified below.

FINDING 9

Requirement: 29 CFR 95.47 states, in part, that a system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions, and specifications of the contract.

29 CFR 95.48 states, in part, that a contract shall include provisions to define a sound and complete agreement.

Office of Management and Budget (OMB) Circular A-122, Attachment B, Section 37 states, in part, the allowability of costs depend upon the adequacy of the contractual agreement for the service (e.g. description of the service, estimate of time required, rate of compensation, and termination provisions).

"Contract." *Wikipedia: The Free Encyclopedia*. Wikimedia Foundation, Inc. 22 July 2004. Web. 10 Aug. 2010.
<http://en.wikipedia.org/wiki/Contract> states, in part, that a contract is an agreement between two parties. The article concerns contract law as derived from common law jurisdiction, and defines eight key requirements for the creation of a contract. The eight requirements are agreement (offer and acceptance), capacity to contract, consideration, legal purpose, legality of form, intent,

consent, and vitiating factors. These eight requirements form the basis of a sound and complete agreement.

Observation:

We observed the original contract with Gary Koenig, Psy.D. for database design was awarded for \$4,000. As of March 31, 2010, the actual amount paid on the contract was \$6,437.50. We observed the January invoice for \$2,031.25 had already exceeded the contracted cost by \$187.50. However, MSW continued to pay invoices for February and March even though the entire contract amount was expended. In addition, our review of the contract terms showed no provisions to extend or increase the costs of the contract. As a result, MSW exceeded payments on this contract by \$2,437.50 (\$6,437.50 - \$4,000.00). Unauthorized expenditure of funds is considered a questioned cost.

On April 27, 2010, MSW modified the contract. The modified contract removed the term of agreement, whereas the original contract specified the term as June 7, 2009 to December 31, 2010. The modified contract also removed the compensation amount, whereas the original contract specified the compensation would not exceed \$4,000. This modified contract does not meet the definition of a sound and complete agreement. As a result, this contract should be terminated.

Furthermore, due to the major changes in the agreement (i.e., time duration and compensation amount), MSW must ensure that the procurement meets the requirement for free and open competition. MSW did not have documentation that its contract with Gary Koenig, Psy.D. was procured through free and open competition.

Recommendation:

We recommended that MSW provide CRO with documentation to show that it has a sound and complete contract with Gary Koenig, Psy.D. If MSW chooses to reprocure with this individual, then it must maintain documentation to show the procurement was done under free and open competition. In addition, we recommend that MSW reimburse the \$2,437.50 overpayment to the WIA account, or provide documentation of why this overpayment is an allowable cost.

MSW Response:

The MSW stated it will reimburse the WIA grant for all expenses associated with the use of this contractor by offsetting August expenses by \$3,513.

State Conclusion: The MSW's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until MSW provides supporting documentation to indicate the costs have been removed from the WIA grant. We recommend that MSW provide CRO with supporting documentation that August expenses were reduced by \$3,513. Until then, this issue remains open and has been assigned CATS number 10172.

PROCUREMENT REVIEW RESULTS

While we concluded that, overall, MSW is meeting applicable WIA requirements concerning procurement, we noted instances of noncompliance in the following areas: written procurement policies and procedures, cost or price analysis, and procurement documentation. The findings that we identified in these areas, our recommendations, and MSW's proposed resolution of the findings are specified below.

FINDING 10

Requirement: 29 CFR 95.41 to 95.47 states, in part, that subgrantees must have written procurement policy and procedures that include, but not limited to the following:

- Process to resolve disputes, claims and protests
- Code of Conduct for employees
- Process to avoid purchasing unnecessary items
- Analysis of lease vs. purchase agreement
- Selection procedures for different types of procurement transactions
- Different types of procurement and detailed procedures to be followed for each
- Requirements for price or cost analysis
- Conditions where sole source procurement may occur

Observation: We observed MSW's internal Fiscal Policies and Procedures Manual do not contain any of the above required procedures.

Recommendation: We recommended that MSW revise its manual to include the above requirements and provide a copy of the revised manual to CRO.

MSW Response: The MSW stated it revised its procurement policies and procedures to include the above required provisions and provided and copy of it to CRO.

State Conclusion: We consider this finding resolved.

FINDING 11

Requirement: 29 CFR 95.45 states, in part, that some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Cost or price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.

Observation: We found that a small purchase for a certified public accountant (CPA) did not contain a cost or price analysis. The source documentation included only an invoice from a local CPA. Specifically, we found no documentation to substantiate that any effort was made to obtain price quotes from other CPAs or accounting professionals.

Recommendation: We recommended that MSW provide CRO with a CAP, stating how it will ensure, in the future, that small purchase procurements will contain more than one price quote.

MSW Response: The MSW stated it revised its procurement policies to require the procurement of goods and services related to government or other restricted funding to have at least 3 documented price comparisons.

State Conclusion: The MSW's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until we verify, during a future on-site visit, MSW's successful implementation of its stated corrective action. Until then, this issue remains open and has been assigned CATS number 10174.

FINDING 12

Requirement: 29 CFR 95.46 states, in part, that procurement records and files shall include the following at a minimum.

- Basis for contractor selection
- Justification for lack of competition when competition bids or offers are not obtained
- Basis of award cost or price

Observation: We reviewed MSW's contract with Gary Koenig, Psy.D. for the design of a database. The procurement records did not contain documentation to demonstrate the basis for contractor selection, justification for lack of competition, or basis of award cost or price.

Recommendation: We recommended that MSW provide documentation to CRO stating how MSW met the above three items. In addition, we recommended that MSW provide CRO with a CAP stating how it will ensure, in the future, that procurement files will contain the minimum documentation required by Section 95.46 of Title 29 of CFR.

MSW Response: The MSW stated it has revised its procurement policies and procedures to include language to require the above three items. Further, MSW determined the contract with Gary Koenig, Psy.D. was not in compliance with its policy. Therefore, MSW will reimburse the WIA grant by offsetting August expenses by \$3,513 for all costs associated with this contractor.

State Conclusion: The MSW's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until MSW provides supporting documentation to indicate the costs are removed from the WIA grant. We recommend that MSW provide CRO with supporting documentation that August expenses were reduced by \$3,513. Until then, this issue remains open and has been assigned CATS number 10175.

We provide you up to 20 working days after receipt of this report to submit to the Compliance Review Office your response to this report. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than December 1, 2010. If we do not receive a response by this date, we will release this report as the final report. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Office
722 Capitol Mall, MIC 22
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-7756.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all of the areas included in our review. As you

know, it is MSW's responsibility to ensure that its systems, programs, and related activities comply with the WIA-related federal regulations, and applicable state directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain MSW's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact Ms. Cynthia Parsell at (916) 654-1292.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Mar", written in a cursive style.

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Office

cc: Katie Crecelius, Board of Director President
Ann Luu, MIC 50
Georganne Pintar, MIC 50